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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JULY 19, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

PETITION OF

CASE NO. PUE-2002-00249

MONTVALE WATER, INC.

For declaratory judgment

ORDER SETTING HEARING AND PROCEDURAL SCHEDULE

On May 2, 2002, Montvale Water, Inc. ("Montvale" or "Company") filed with the State Corporation Commission ("Commission") a Petition for Declaratory Judgment ("Petition"). In its Petition, Montvale requested that the Commission rule on whether Woodhaven Nursing Home ("Woodhaven") has the right to supply customers, other than its existing nursing home facility, with water. On May 22, 2002, the Commission issued an Order Inviting Response ("Order") providing Woodhaven an opportunity to file a response on the Company's Petition and Montvale to file a reply to any response.

Pursuant to the Order, on June 4, 2002, Woodhaven filed a response arguing that Woodhaven does not have any obligation to purchase water from Montvale, and that Woodhaven does not intend to purchase water from any other public utility in Montvale's

certificated area. Woodhaven further argues in its Response that Montvale is attempting to interfere with Woodhaven's lawful business activity and is trying to force Woodhaven to purchase water from Montvale, although Woodhaven has sufficient water on its property for its use. In its response, Woodhaven requests that the Commission dismiss Montvale's Petition.

Montvale did not file a reply to Woodhaven's response.

NOW UPON CONSIDERATION of the Petition and Woodhaven's response, the Commission is of the opinion and finds that Woodhaven's motion to dismiss the Petition should be denied. The pleadings have demonstrated disputed facts and legal issues that warrant further proceedings. The Commission finds that a hearing should be scheduled to take evidence on this matter; that a procedural schedule should be established for the filing of testimony and exhibits and conducting discovery; and that a hearing examiner be assigned to conduct all further proceedings in this matter on behalf of the Commission.

Accordingly, IT IS ORDERED THAT:

(1) A hearing to take evidence on the Petition is scheduled for September 16, 2002, at 10:00 a.m. in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia.

(2) As provided by § 12.1-31 of the Code of Virginia and the Commission's Rules of Practice and Procedure ("Practice

Rules"), 5 VAC 5-20-120, *Procedure before hearing examiners*, a hearing examiner be appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

(3) On or before August 16, 2002, Montvale shall file an original and fifteen (15) copies of any testimony and exhibits it intends to offer in support of its Petition at the September 16, 2002, hearing with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond Virginia 23218, and shall refer to case No. PUE-2002-00249.

(4) On or before August 30, 2002, Woodhaven shall file an original and fifteen copies of any testimony and exhibits it intends to offer at the September 16, 2002, hearing with the Clerk of the Commission at the address set forth in Ordering paragraph (3).

(5) On or before September 9, 2002, Montvale shall file with the Clerk of the Commission an original and fifteen (15) copies of any rebuttal testimony.

(6) Discovery shall be conducted in accordance with Part IV of the Practice Rules, 5 VAC 5-20-240 through 5 VAC 5-20-280, except that responses shall be served within seven (7) calendar days after receipt of interrogatories and special motions upon the validity of any objections raised by answers shall be filed within five days of receipt.

(7) This matter is continued generally.